

111TH CONGRESS
1ST SESSION

H. R. 448

To protect seniors in the United States from elder abuse by establishing specialized elder abuse prosecution and research programs and activities to aid victims of elder abuse, to provide training to prosecutors and other law enforcement related to elder abuse prevention and protection, to establish programs that provide for emergency crisis response teams to combat elder abuse, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 9, 2009

Mr. SESTAK (for himself, Mr. CONYERS, Mr. SCOTT of Virginia, and Mr. KING of New York) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To protect seniors in the United States from elder abuse by establishing specialized elder abuse prosecution and research programs and activities to aid victims of elder abuse, to provide training to prosecutors and other law enforcement related to elder abuse prevention and protection, to establish programs that provide for emergency crisis response teams to combat elder abuse, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Elder Abuse Victims
3 Act of 2009”.

4 **TITLE I—ELDER ABUSE VICTIMS**

5 **SEC. 101. ANALYSIS, REPORT, AND RECOMMENDATIONS RE-**
6 **LATED TO ELDER JUSTICE PROGRAMS.**

7 (a) IN GENERAL.—Subject to the availability of ap-
8 propriations to carry out this section, the Attorney Gen-
9 eral, in consultation with the Secretary of Health and
10 Human Services, shall carry out the following:

11 (1) STUDY.—Conduct a study of laws and prac-
12 tices relating to elder abuse, neglect, and exploi-
13 tation, which shall include—

14 (A) a comprehensive description of State
15 laws and practices relating to elder abuse, ne-
16 glect, and exploitation;

17 (B) a comprehensive analysis of the effec-
18 tiveness of such State laws and practices; and

19 (C) an examination of State laws and prac-
20 tices relating to specific elder abuse, neglect,
21 and exploitation issues, including—

22 (i) the definition of—

23 (I) “elder”;

24 (II) “abuse”;

25 (III) “neglect”;

26 (IV) “exploitation”; and

1 (V) such related terms the Attor-
2 ney General determines to be appro-
3 priate;

4 (ii) mandatory reporting laws, with re-
5 spect to—

6 (I) who is a mandated reporter;

7 (II) to whom must they report
8 and within what time frame; and

9 (III) any consequences for not
10 reporting;

11 (iii) evidentiary, procedural, sen-
12 tencing, choice of remedies, and data re-
13 tention issues relating to pursuing cases
14 relating to elder abuse, neglect, and exploi-
15 tation;

16 (iv) laws requiring reporting of all
17 nursing home deaths to the county coroner
18 or to some other individual or entity;

19 (v) fiduciary laws, including guardian-
20 ship and power of attorney laws;

21 (vi) laws that permit or encourage
22 banks and bank employees to prevent and
23 report suspected elder abuse, neglect, and
24 exploitation;

1 (vii) laws relating to fraud and related
2 activities in connection with mail, tele-
3 marketing, or the Internet;

4 (viii) laws that may impede research
5 on elder abuse, neglect, and exploitation;

6 (ix) practices relating to the enforce-
7 ment of laws relating to elder abuse, ne-
8 glect, and exploitation; and

9 (x) practices relating to other aspects
10 of elder justice.

11 (2) DEVELOPMENT OF PLAN.—Develop objec-
12 tives, priorities, policies, and a long-term plan for
13 elder justice programs and activities relating to—

14 (A) prevention and detection of elder
15 abuse, neglect, and exploitation;

16 (B) intervention and treatment for victims
17 of elder abuse, neglect, and exploitation;

18 (C) training, evaluation, and research re-
19 lated to elder justice programs and activities;
20 and

21 (D) improvement of the elder justice sys-
22 tem in the United States.

23 (3) REPORT.—Not later than 2 years after the
24 date of enactment of this Act, submit to the chair-
25 man and ranking member of the Special Committee

1 on Aging of the Senate, and the Speaker and minor-
2 ity leader of the House of Representatives, and the
3 Secretary of Health and Human Services, and make
4 available to the States, a report that contains—

5 (A) the findings of the study conducted
6 under paragraph (1);

7 (B) a description of the objectives, prior-
8 ities, policies, and a long-term plan developed
9 under paragraph (2); and

10 (C) a list, description, and analysis of the
11 best practices used by States to develop, imple-
12 ment, maintain, and improve elder justice sys-
13 tems, based on such findings.

14 (b) GAO RECOMMENDATIONS.—Not later than one
15 year after the date of the enactment of this Act, the Comp-
16 troller General shall report to Congress any recommenda-
17 tions with respect to any Federal legislation, regulations,
18 or programs determined by the Comptroller General to be
19 necessary to improve elder justice in the United States.

20 (c) AUTHORIZATION OF APPROPRIATIONS.—There
21 are authorized to be appropriated to carry out this section
22 \$6,000,000 for each of the fiscal years 2009 through
23 2015.

1 **SEC. 102. VICTIM ADVOCACY GRANTS.**

2 (a) GRANTS AUTHORIZED.—The Attorney General,
3 after consultation with the Secretary of Health and
4 Human Services, may award grants to eligible entities to
5 study the special needs of victims of elder abuse, neglect,
6 and exploitation.

7 (b) AUTHORIZED ACTIVITIES.—Funds awarded pur-
8 suant to subsection (a) shall be used for pilot programs
9 that—

10 (1) develop programs for and provide training
11 to health care, social, and protective services pro-
12 viders, law enforcement, fiduciaries (including
13 guardians), judges and court personnel, and victim
14 advocates; and

15 (2) examine special approaches designed to
16 meet the needs of victims of elder abuse, neglect,
17 and exploitation.

18 (c) AUTHORIZATION OF APPROPRIATIONS.—There
19 are authorized to be appropriated to carry out this section
20 \$3,000,000 for each of the fiscal years 2009 through
21 2015.

22 **SEC. 103. SUPPORTING LOCAL PROSECUTORS AND COURTS**
23 **IN ELDER JUSTICE MATTERS.**

24 (a) GRANTS AUTHORIZED.—Subject to the avail-
25 ability of appropriations under this section, the Attorney
26 General, after consultation with the Secretary of Health

1 and Human Services, shall award grants to eligible enti-
 2 ties to provide training, technical assistance, policy devel-
 3 opment, multidisciplinary coordination, and other types of
 4 support to local prosecutors and courts handling elder jus-
 5 tice-related cases, including—

6 (1) funding specially designated elder justice
 7 positions or units in local prosecutors’ offices and
 8 local courts; and

9 (2) funding the creation of a Center for the
 10 Prosecution of Elder Abuse, Neglect, and Exploi-
 11 tation to advise and support local prosecutors and
 12 courts nationwide in the pursuit of cases involving
 13 elder abuse, neglect, and exploitation.

14 (b) AUTHORIZATION OF APPROPRIATIONS.—There
 15 are authorized to be appropriated to carry out this section
 16 \$6,000,000 for each of the fiscal years 2009 through
 17 2015.

18 **SEC. 104. SUPPORTING STATE PROSECUTORS AND COURTS**

19 **IN ELDER JUSTICE MATTERS.**

20 (a) IN GENERAL.—Subject to the availability of ap-
 21 propriations under this section, the Attorney General,
 22 after consultation with the Secretary of Health and
 23 Human Services, shall award grants to eligible entities to
 24 provide training, technical assistance, multidisciplinary co-
 25 ordination, policy development, and other types of support

1 to State prosecutors and courts, employees of State Attor-
2 neys General, and Medicaid Fraud Control Units handling
3 elder justice-related matters.

4 (b) CREATING SPECIALIZED POSITIONS.—Grants
5 under this section may be made for—

6 (1) the establishment of specially designated
7 elder justice positions or units in State prosecutors’
8 offices and State courts; and

9 (2) the creation of a position to coordinate elder
10 justice-related cases, training, technical assistance,
11 and policy development for State prosecutors and
12 courts.

13 (c) AUTHORIZATION OF APPROPRIATIONS.—There
14 are authorized to be appropriated to carry out this section
15 \$6,000,000 for each of the fiscal years 2009 through
16 2015.

17 **SEC. 105. SUPPORTING LAW ENFORCEMENT IN ELDER JUS-**
18 **TICE MATTERS.**

19 (a) IN GENERAL.—Subject to the availability of ap-
20 propriations under this section, the Attorney General,
21 after consultation with the Secretary of Health and
22 Human Services, the Postmaster General, and the Chief
23 Postal Inspector for the United States Postal Inspection
24 Service, shall award grants to eligible entities to provide
25 training, technical assistance, multidisciplinary coordina-

tion, policy development, and other types of support to police, sheriffs, detectives, public safety officers, corrections personnel, and other first responders who handle elder justice-related matters, to fund specially designated elder justice positions or units designed to support first responders in elder justice matters.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$8,000,000 for each of the fiscal years 2009 through 2015.

SEC. 106. EVALUATIONS.

(a) GRANTS UNDER THIS TITLE.—

(1) IN GENERAL.—In carrying out the grant programs under this title, the Attorney General shall—

(A) require each recipient of a grant to use a portion of the funds made available through the grant to conduct a validated evaluation of the effectiveness of the activities carried out through the grant by such recipient; or

(B) as the Attorney General considers appropriate, use a portion of the funds available under this title for a grant program under this title to provide assistance to an eligible entity to conduct a validated evaluation of the effective-

1 ness of the activities carried out through such
2 grant program by each of the grant recipients.

3 (2) APPLICATIONS.—

4 (A) SUBMISSION.—To be eligible to receive
5 a grant under this title, an entity shall submit
6 an application to the Attorney General at such
7 time, in such manner, and containing such in-
8 formation as the Attorney General may require,
9 which shall include—

10 (i) a proposal for the evaluation re-
11 quired in accordance with paragraph
12 (1)(A); and

13 (ii) the amount of assistance under
14 paragraph (1)(B) the entity is requesting,
15 if any.

16 (B) REVIEW AND ASSISTANCE.—

17 (i) IN GENERAL.—An employee of the
18 Department of Justice, after consultation
19 with an employee of the Department of
20 Health and Human Services with expertise
21 in evaluation methodology, shall review
22 each application described in subparagraph
23 (A) and determine whether the method-
24 ology described in the proposal under sub-

1 paragraph (A)(i) is adequate to gather
2 meaningful information.

3 (ii) DENIAL.—If the reviewing em-
4 ployee determines the methodology de-
5 scribed in such proposal is inadequate, the
6 reviewing employee shall recommend that
7 the Attorney General deny the application
8 for the grant, or make recommendations
9 for how the application should be amended.

10 (iii) NOTICE TO APPLICANT.—If the
11 Attorney General denies the application on
12 the basis of such proposal, the Attorney
13 General shall inform the applicant of the
14 reasons the application was denied, and
15 offer assistance to the applicant in modi-
16 fying the proposal.

17 (b) OTHER GRANTS.—Subject to the availability of
18 appropriations under this section, the Attorney General
19 shall award grants to appropriate entities to conduct vali-
20 dated evaluations of grant activities that are funded by
21 Federal funds not provided under this title, or other funds,
22 to reduce elder abuse, neglect, and exploitation.

23 (c) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated to carry out this section

1 \$7,000,000 for each of the fiscal years 2009 through
2 2015.

3 **SEC. 107. DEFINITIONS.**

4 In this title:

5 (1) ELDER.—The term “elder” means an indi-
6 vidual age 60 or older.

7 (2) ELDER JUSTICE.—The term “elder justice”
8 means—

9 (A) from a societal perspective, efforts
10 to—

11 (i) prevent, detect, treat, intervene in,
12 and prosecute elder abuse, neglect, and ex-
13 ploitation; and

14 (ii) protect elders with diminished ca-
15 pacity while maximizing their autonomy;
16 and

17 (B) from an individual perspective, the rec-
18 ognition of an elder’s rights, including the right
19 to be free of abuse, neglect, and exploitation.

20 (3) ELIGIBLE ENTITIES.—The term “eligible
21 entity” means a State or local government agency,
22 Indian tribe or tribal organization, or any other pub-
23 lic or nonprofit private entity that is engaged in and
24 has expertise in issues relating to elder justice or a
25 field necessary to promote elder justice efforts.

1 **TITLE II—ELDER SERVE VICTIM**
2 **GRANT PROGRAMS**

3 **SEC. 201. ESTABLISHMENT OF ELDER SERVE VICTIM**
4 **GRANT PROGRAMS.**

5 (a) ESTABLISHMENT.—The Attorney General, acting
6 through the Director of the Office of Victims of Crime
7 of the Department of Justice (in this section referred to
8 as the “Director”), shall, subject to appropriations, carry
9 out a three-year grant program to be known as the Elder
10 Serve Victim grant program (in this section referred to
11 as the “Program”) to provide grants to eligible entities
12 to establish programs to facilitate and coordinate pro-
13 grams described in subsection (e) for victims of elder
14 abuse.

15 (b) ELIGIBILITY REQUIREMENTS FOR GRANTEEES.—
16 To be eligible to receive a grant under the Program, an
17 entity must meet the following criteria:

18 (1) ELIGIBLE CRIME VICTIM ASSISTANCE PRO-
19 GRAM.—The entity is a crime victim assistance pro-
20 gram receiving a grant under the Victims of Crime
21 Act of 1984 (42 U.S.C. 1401 et seq.) for the period
22 described in subsection (c)(2) with respect to the
23 grant sought under this section.

24 (2) COORDINATION WITH LOCAL COMMUNITY
25 BASED AGENCIES AND SERVICES.—The entity shall

1 demonstrate to the satisfaction of the Director that
2 such entity has a record of community coordination
3 or established contacts with other county and local
4 services that serve elderly individuals.

5 (3) ABILITY TO CREATE ECRT ON TIMELY
6 BASIS.—The entity shall demonstrate to the satisfac-
7 tion of the Director the ability of the entity to cre-
8 ate, not later than 6 months after receiving such
9 grant, an Emergency Crisis Response Team pro-
10 gram described in subsection (e)(1) and the pro-
11 grams described in subsection (e)(2).

12 For purposes of meeting the criteria described in para-
13 graph (2), for each year an entity receives a grant under
14 this section the entity shall provide a record of community
15 coordination or established contacts described in such
16 paragraph through memoranda of understanding, con-
17 tracts, subcontracts, and other such documentation.

18 (c) ADMINISTRATIVE PROVISIONS.—

19 (1) CONSULTATION.—Each program established
20 pursuant to this section shall be developed and car-
21 ried out in consultation with the following entities,
22 as appropriate:

23 (A) Relevant Federal, State, and local pub-
24 lic and private agencies and entities, relating to

1 elder abuse, neglect, and exploitation and other
2 crimes against elderly individuals.

3 (B) Local law enforcement including po-
4 lice, sheriffs, detectives, public safety officers,
5 corrections personnel, prosecutors, medical ex-
6 aminers, investigators, and coroners.

7 (C) Long-term care and nursing facilities.

8 (2) GRANT PERIOD.—Grants under the Pro-
9 gram shall be issued for a three-year period.

10 (3) LOCATIONS.—The Program shall be carried
11 out in six geographically and demographically di-
12 verse locations, taking into account—

13 (A) the number of elderly individuals resid-
14 ing in or near an area; and

15 (B) the difficulty of access to immediate
16 short-term housing and health services for vic-
17 tims of elder abuse.

18 (d) PERSONNEL.—In providing care and services,
19 each program established pursuant to this section may
20 employ a staff to assist in creating an Emergency Crisis
21 Response Teams under subsection (e)(1).

22 (e) USE OF GRANTS.—

23 (1) EMERGENCY CRISIS RESPONSE TEAM.—
24 Each entity that receives a grant under this section
25 shall use such grant to establish an Emergency Cri-

1 sis Response Team program by not later than the
2 date that is six months after the entity receives the
3 grant. Under such program the following shall
4 apply:

5 (A) Such program shall include immediate,
6 short-term emergency services, including shel-
7 ter, care services, food, clothing, transportation
8 to medical or legal appointment as appropriate,
9 and any other life services deemed necessary by
10 the entity for victims of elder abuse.

11 (B) Such program shall provide services to
12 victims of elder abuse, including those who have
13 been referred to the program through the adult
14 protective services agency of the local law en-
15 forcement or any other relevant law enforce-
16 ment or referral agency.

17 (C) A victim of elder abuse may not re-
18 ceive short-term housing under the program for
19 more than 30 consecutive days.

20 (D) The entity that established the pro-
21 gram shall enter into arrangements with the
22 relevant local law enforcement agencies so that
23 the program receives quarterly reports from
24 such agencies on elder abuse.

1 (2) ADDITIONAL SERVICES REQUIRED TO BE
2 PROVIDED.—Not later than one year after the date
3 an entity receives a grant under this section, such
4 entity shall have established the following programs
5 (and community collaborations to support such pro-
6 grams):

7 (A) COUNSELING.—A program that pro-
8 vides counseling and assistance for victims of
9 elder abuse accessing health care, educational,
10 pension, or other benefits for which seniors may
11 be eligible under Federal or applicable State
12 law.

13 (B) MENTAL HEALTH SCREENING.—A
14 program that provides mental health screenings
15 for victims of elder abuse to identify and seek
16 assistance for potential mental health disorders
17 such as depression or substance abuse.

18 (C) EMERGENCY LEGAL ADVOCACY.—A
19 program that provides legal advocacy for vic-
20 tims of elder abuse and, as appropriate, their
21 families.

22 (D) JOB PLACEMENT ASSISTANCE.—A pro-
23 gram that provides job placement assistance
24 and information on employment, training, or

1 volunteer opportunities for victims of elder
2 abuse.

3 (E) BEREAVEMENT COUNSELING.—A pro-
4 gram that provides bereavement counseling for
5 families of victims of elder abuse.

6 (F) OTHER SERVICES.—A program that
7 provides such other care, services, and assist-
8 ance as the entity considers appropriate for
9 purposes of the program.

10 (f) TECHNICAL ASSISTANCE.—The Director shall
11 enter into contracts with private entities with experience
12 in elder abuse coordination or victim services to provide
13 such technical assistance to grantees under this section
14 as the entity determines appropriate.

15 (g) REPORTS TO CONGRESS.—Not later than 12
16 months after the commencement of the Program, and an-
17 nually thereafter, the entity shall submit a report to the
18 Chairman and Ranking Member of the Committee on the
19 Judiciary of the House of Representatives, and the Chair-
20 man and Ranking Member of the Special Committee on
21 Aging of the Senate. Each report shall include the fol-
22 lowing:

23 (1) A description and assessment of the imple-
24 mentation of the Program.

1 (2) An assessment of the effectiveness of the
2 Program in providing care and services to seniors,
3 including a comparative assessment of effectiveness
4 for each of the locations designated under subsection
5 (c)(3) for the Program.

6 (3) An assessment of the effectiveness of the
7 coordination for programs described in subsection
8 (e) in contributing toward the effectiveness of the
9 Program.

10 (4) Such recommendations as the entity con-
11 siders appropriate for modifications of the Program
12 in order to better provide care and services to sen-
13 iors.

14 (h) DEFINITIONS.—For purposes of this section:

15 (1) ELDER ABUSE.—The term “elder abuse”
16 means any type of violence or abuse, whether mental
17 or physical, inflicted upon an elderly individual, and
18 any type of criminal financial exploitation of an el-
19 derly individual.

20 (2) ELDERLY INDIVIDUAL.—The term “elderly
21 individual” means an individual who is age 60 or
22 older.

23 (i) AUTHORIZATION OF APPROPRIATIONS.—There is
24 authorized to be appropriated for the Department of Jus-

- 1 tice to carry out this section \$3,000,000 for each of the
- 2 fiscal years 2009 through 2011.

